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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 03.08.2022

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Judgment delivered on: 08.08.2022

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W.P.(C) 5785/2013

JITINDER TIWARI

..... Petitioner

Through: Mr. Shahid Ali, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Ripudaman Bhardwaj, CGSC for R-1/UOI
Ms. Avnish Ahlawat, Standing Counsel (Services), GNCTD with Mr. Nitesh Kumar Singh, Ms. Tania Ahlawat, Ms. Palak Rohmetra, Ms. Laavanya Kaushik, Ms. Aliza Alam, Advocates

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

J U D G M E N T

SATISH CHANDRA SHARMA, C.J.

1. The Petitioner before this Court has filed the present petition being aggrieved by the Order dated 13.05.2011, passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT) in O.A. No.



2725/2009 by which the Original Application challenging the order of punishment dated 26.08.2008 and the order rejecting the appeal was dismissed.

2. The facts of the case reveal that the petitioner who, at the relevant point of time was serving as Sub Inspector of Police was subjected to disciplinary proceedings along with one Om Prakash Ahlawat. The allegations leveled against the petitioner and Om Prakash Ahlawat reveal that while posted at Police Station Paschim Vihar they detained Smt. Santosh Jain and Smt. Anita Jain along with her two minor children in the absence of any male family member of the family. The action was taken by the petitioner as well as Om Prakash Ahlawat based upon a complaint of Smt. Meenu Jain dated 03.05.2002. The facts further reveal that ignoring the earlier complaint of Smt. Santosh Jain dated 02.05.2002 and her PCR calls, action was taken against her. The charges further reveal that Smt. Santosh Jain and her daughter-in-law and minor children were detained in the Police Station from 9:30 A.M. to 3:30 P.M. on 05.05.2002. They were allegedly humiliated and threatened to vacate the house. The facts further reveal that on account of the detention and harassment, Smt. Santosh Jain fell sick and she was hospitalized at Muni Maya Ram Jain Hospital, Pitampura from 05.05.2002 at 06:00 P.M. to 06.05.2002 at 10:00 P.M.

3. It is further alleged that on 05.05.2002, the Petitioner accompanied Smt. Meenu Jain to Flat No. GH-9/149, Paschim Vihar in the absence of the owner Smt. Santosh Jain and her family and permitted her to take possession of the house by breaking the locks.



4. The allegations further reveal that on 06.05.2002, the petitioner also got an FIR registered i.e. FIR No. 200/2002 under Sections 341/506/34 IPC at Police Station Paschim Vihar against Smt. Santosh Jain and her family without proper verification.

5. Based upon the complaint made by Smt. Santosh Jain on 07.05.2002, a charge sheet was issued on 12.11.2002 keeping in view the Delhi Police Establishment Punishment and Appeal Rules, 1980. The imputation of misconduct as reflected from the charge sheet is reproduced as under:

“I, Dr. P.S. Bhushan, Deputy Commissioner of Police, D.E. Cell, Delhi, the Enquiry Officer) hereby charge you Insp. Om Parkash Ahlawat No. D-1/908 and SI Jitender Tiwari No. D/305 that on 05.05.2002 while you were posted as SHO/PS Paschim Vihar and SI/IO/PS Paschim Vihar respectively (both of) you took Smt Santosh Jain and Smt Anita Jain alongwith her two minor children in absence of any male family member to P S Paschim Vihar in pursuance of complaint of Suit Menu Jain dated 03/05/2002 ignoring earlier complaints of Smt Santosh Jain dated 02/05/2002 and her PCR call Both of you detained Smt Santosh Jain and her daughter-in-law Smt Anita Jain and her minor children in P S Paschim Vihar from 9:30 AM to 3:39 PM on 05/05/2002 where they were humiliated and threatened to vacate the house Due to above detention and harassment, Smt. Santosh Jain was hospitalized at Muni Maya Ram Jain Hospital, Pitampura, Delhi from 05/05/2002 (6:00 PM) to 06/05/2002 (10:00 PM). You SI Jitender Tiwari No D/305 accompanied Smt Meenu Jain to Flat No. GH-9/149, Paschim Vihar, New Delhi in the absence of the owner Smt Santosh Jain and her family due to her hospitalisation) and allowed Smt Menu Jain to enter into the Flat after breaking open the locks of the house in your presence on 6/5/2002, you SI Jitender Tiwari No D/305 also got FIR No 200/2002 u/s 341/506/34 IPC registered at PS Paschim Vihar against Sh Ravinder Kumar



Jain and his family on flimsy ground without proper verification.

The above act on the part of you Inspr. Om Parkash Ahlawat No. D-1/908 and SI Jitender Tiwari No. D/305 amounts to grave misconduct and acting in a partisan manner while performing official duty, which renders you liable for punishment under the provisions of the Delhi Police (Punishment & Appeal) Rules, 1980.”

6. The petitioner as well as Om Prakash Ahlawat denied the charges and after examining the prosecution witnesses and the defence witnesses, the Enquiry Officer submitted its report in the matter. The disciplinary authority furnished a copy of the enquiry report to the petitioner as well as the other charged official and a representation was submitted by the petitioner on 16.06.2006 and, thereafter a final order was passed by the disciplinary authority on 23.11.2006. The disciplinary authority has inflicted punishment of forfeiture of 2 years approved service permanently and entailing proportionate reduction in pay of both Jitinder Tiwari (the present petitioner) and Om Prakash Ahlawat. The extract of the Order passed by the disciplinary authority is reproduced as under:

“On perusal of the record, it has been seen that both the delinquents have not controverted the presence of Smt. Santosh Jain in PS on the given date and Inspector Om Prakash Ahlawat himself has admitted in his defence statement that the document of Smt. Santosh Jain dated 2/5/2006 is a fabricated in as much as the stamp of PS is incomplete and not signed by the receiver. If the stamp is incomplete and complaint was not signed by the officer of PS, it is not the fault of PW-1 Smt. Santosh Jain. Even the P.S. stamp was not produced during D.E. proceedings to support the defence version. The delinquents detained the complainant Smt. Santosh Jain, her daughter-in-law Smt. Anita Jain with her two minor children in



the P.S. from 9:30 AM to 3:30 PM on 5/5/2002 where they were humiliated and threatened to vacate the house resulting Smt. Santosh Jain hospitalised, which have been proved. It has also been proved that SI Jitender Tiwari accompanied Smt. Meenu Jain to Flat No. GH-9/149, Paschim Vihar in the absence of Smt. Santosh Jain and her family and allowed Smt. Menu Jain to enter into the flat after breaking open the locks of the house in his presence. The SI also got FIR No. 200/2002 u/s 341/506/34 IPC registered at P.S. Paschim Vihar against Shri Ravinder Jain and his family on flimsy grounds without proper verification, was the prime duty of police officers in the light of instructions given from time to time to make FIR foolproof in consonance with the spirit of justice.

In view of the above discussion, it has been clearly established that Smt. Santosh Jain and Smt. Anita Jain with her two minor children were detained in the Police Station where they were humiliated and threatened to. vacate the house resulting Smt. Santosh Jain was hospitalised and meanwhile Smt. Meenu Jain was allowed to enter the flat No. GH-9/149, Paschim Vihar after breaking open the locks of the house.

Considering all relevant aspects of the case, I, Rajesh Kumar, Joint CP/Southern Range, New Delhi imposed upon the punishment of forfeiture of two years approved service permanently entailing proportionate reduction in the pay of both Inspector Om Prakash Ahlawat, No. D- 1/908 and SI Jitender Tiwari, No. D-305.

Let a copy of this order be given to them free of cost. They can file an appeal against this order to the Commissioner of Police, Delhi within 30 days from its receipt on a nonjudicial stamp worth Rs 00.75 paise by enclosing a copy of order, if they so desire.”

7. The petitioner and the other charged official preferred an appeal in the matter on 26.12.2006 and the appeal was dismissed by a speaking order dated 26.08.2008. The petitioner as well as the other official had preferred



an Original Application before the Tribunal and they were registered as O.A. No. 347/2008 and O.A. No. 2725/2009. It is only the petitioner who has challenged the order of punishment and the co-charged official has not preferred any writ petition before this Court.

8. Learned Counsel while arguing the matter has argued before this Court that the disciplinary authority as well as the CAT has committed material irregularity and illegality by inflicting the punishment and by upholding the punishment order and the evidence and facts in their true perspective have not been considered.

9. The petitioner further stated that he has brought on record the entire evidence and the evidence does not establish the guilt of the petitioner.

10. Learned counsel for the petitioner has also argued before this Court that the departmental enquiry was not completed within 3 months as required under Standing Order Number 125/01 issued by the Commissioner of Police, Delhi and, therefore, the entire proceedings and the subsequent punishment order stands vitiated. He has also argued that some of the statements of the prosecution witnesses which were recorded during preliminary enquiry were accepted and relied upon in the departmental enquiry and, therefore, the procedure is in violation of Rule 15(3) and 16(3) of the Delhi Police (Punishment and Appeal) Rules, 1980.

11. Learned counsel has also minutely scanned the evidence before this Court and it was vehemently argued that the complaint submitted by Smt. Santosh Jain was a concocted complaint and was only to harass and humiliate the petitioner and the other charged official only because they



were doing their lawful duty and the punishment order inflicted upon them deserves to be set aside. Learned Counsel for the petitioner has made an attempt to make out a case of no evidence in the matter and a prayer has been made for quashment of order dated 13.05.2011 passed by the CAT as well as the punishment order dated 23.11.2006 and the order rejecting the appeal dated 26.08.2008. The Tribunal, after taking into account all the grounds raised by the petitioner has dismissed Original Application and in paragraphs 5 to 13 has held as under:

“5. Learned counsel for the applicants has argued that the inquiry officer has taken into account inadmissible evidence and has also shifted the burden of proof on the applicants and has recorded findings on the basis of false and incorrect facts, as such the findings recorded by the inquiry officer are perverse and vitiated. It is further argued that in fact the complaint dated 2.5.2002 filed by the complainant St. Santosh Jain was never received in the PS and the documents pertaining to treatment of Smt. Santosh Jain in the hospital are also doubtful. It is further averred that similarly the complaint dated 5.5.2002 is also fabricated one, as 5.5.2002 was a holiday and the office of the Commissioner of Police was closed on that date. It is also argued that it was only during the tenure of Shri Y.S. Dadwal, Commissioner of Police when the orders were passed to maintain skeleton staff. According to the learned counsel for the applicants, these two complaints dated 2.5.2002 and 5.5.2002 have been created just to falsely implicate the applicants.

6. It is further argued that none of the DWs has supported the prosecution version, rather all the DWs have categorically stated that the complainant Smt. Anita Jain and her children were neither present in the police station, nor were they detained in the police station. Thus, according to the learned counsel for the applicants, the Order passed by the Disciplinary authority as confirmed by the Appellate authority is required to be quashed and set aside.



7. We have given due consideration to the submissions made by the learned counsel for the applicants. The charges against the applicants stand fully proved in the light of deposition of PW 1 Smt. Santosh Jain (complainant) as well as Smt. Anita Jain, who appeared in the witness box as also supported by the medical evidence, which shows that Smt. Santosh Jain was admitted in the Muni Maya Ram Jain Hospital, Pitampura from 5.5.2002 at 6.00 PM to 6.5.2002 at 10.00 PM. The hospitalization of PW 1 has been admitted by Dr. H.C. Bunker. DW 1 in the light of the discharge slip, which has been exhibited as EX.PV/S/A in the departmental inquiry. Further, PW 8 & 9 have specifically stated that it was PW-1, who was residing in the flat No.GH-9/149 whereas the daughter of the complainant Smt. Meenu Jain was not residing in the disputed premises and was residing at Rohini. It has also come in the evidence of the independent witnesses that it was the police officials who broke up the locks and had given possession to Smt. Meenu Jain. This was done when the complainant PW-1 and her daughter-in-law PW-6 along with children were in custody and timing of the detention was chosen when Shri Ravinder Jain son of the complainant was away from Delhi.

8. The submission made by the learned counsel for the applicants that both these complaints, which have been falsely implicated if viewed in the light of the defence witnesses charges have not been proved, cannot be accepted as we are convinced that why the complainant should implicate the police officials falsely. Further, dispute between the parties was regarding a disputed property and the parties were litigating before the Civil Court and even for the arguments sake, it is argued that the complainant Smt. Santosh Jain was a trespasser, in that eventuality also, it was not permissible for the police officials to take law in their hands and detain the ladies along with minor children, especially when the police officials have taken cognizance of the complaint filed by Smt. Menu Jain on 3.5.2002 whereas no such cognizance was taken by the respondents in respect of the complaints made by the complainant Smt. Santosh Jain on 2.5.2002 and 5.5.2002. The contention raised by the learned counsel for the applicants that



these two documents are fabricated and have been created subsequently is of no consequence on the face of the statement made by PWs 1 & 6 when viewed with the independent evidence of PWs 8 & 9 along with the medical report

9. Be that as it may, scope of interference by the Court or the Tribunal with conclusion of guilt is limited to the situation where the proceedings were held in violation of the principles of natural justice or in violation of statutory rules prescribing the mode of inquiry or whether the conclusion or the finding reached by the disciplinary authority is based on no evidence or no reasonable person would have reached the conclusion. The Tribunal will not sit over the appeal to test the finding of fact. What the applicants want us to re- appreciate the evidence on the basis of deposition made by the DWs ignoring the version given by the PWs. This is impermissible, as the applicants have not made out any case for our interference and it is not a case of such nature where it can be held that the finding recorded by the disciplinary authority is without any evidence. Thus, it is not permissible for us to substitute the findings given by the authorities based on evidence and come to a contrary conclusion. The respondents have also placed on record the photo copy of the complaint made by the complainant Smt. Santosh Jain on 2.5.2002 as Annexure R-1. Perusal of this document reveals that the date 2.5.2002 has been recorded on the top whereas the seal affixed to this document shows May 2002 as the date of receipt of the complaint.

10. Lastly it was argued that the applicant (Jitinder Tiwari) imputed with additional charge of restoring possession of house in question to Smt. Meenu Jain over and above the common charge but both are awarded same punishment of forfeiture of two years of approved service. Thus, according to the learned counsel, the punishment awarded to the applicant (Om Prakash Ahlawat) is disproportionate to the gravity of the offence committed.

11. We have given due consideration to this submission made by the learned counsel for the applicants. In exercise of judicial review, it is not open for us to interfere with the quantum of



punishment unless the same is shockingly disproportionate. Keeping in view the gravity of misconduct whereby the applicants had detained two lady women along with the minor children for considerably long period, which has also resulted into the admission of the complainant PW-1 in the hospital, we are of the view that the punishment imposed upon the applicants cannot be said to be too harsh, rather they had been dealt with leniently.

12. Be that as it may, since, as already stated above, it is not permissible for us to interfere with the quantum of punishment imposed by the authorities in exercise of power of judicial review unless the same is shockingly disproportionate, we are of the view that the punishment imposed upon the applicant (Om Prakash Ahlawat) cannot be said to be disproportionate to the gravity of the misconduct.

13. For the foregoing reasons, the OAs, which are found bereft of merit, are accordingly dismissed with no order as to costs. Let a copy of this order be placed in both the files.”

12. The aforesaid order makes it very clear that the Tribunal has minutely scanned the evidence on record and has arrived at a conclusion that no case for interference is made out in the matter.

13. The scope of judicial interference in departmental enquiry is very limited. However, as it was pleaded before this Court that the present case is a case of no evidence and the finding arrived at by Inquiry Officer are perverse findings, this Court has also looked into the entire evidence on record.

14. The statement of Prosecution witnesses has clearly established the misconduct leveled against the petitioner.

15. The statement of PW-1, Santosh Jain (complainant) as well as Smt. Anita Jain who have appeared before the Inquiry Officer and the medical



evidence brought on record establishes that she was admitted in Muni Maya Ram Jain Hospital on account of harassment and humiliation and even the Doctor of the hospital, Dr. H.C. Bunker DW 1 was examined before the Departmental Inquiry. The statement of independent witnesses also establishes that the possession of the house was given to Smt. Meenu Jain in the presence of the Police officials and it was the Police officials who broke the locks.

16. Learned counsel has also argued before this Court that there was a dispute between Smt. Santosh Jain and Smt. Meenu Jain in respect of a house and Smt. Santosh Jain was a trespasser. In the considered opinion of this Court, even if Smt. Santosh Jain was a trespasser, it was not for the Police to act as the Civil Court and to hand over the possession to a particular party.

17. The misconduct as leveled in the matter has been proved based upon the statement made before the inquiry officer and in a departmental inquiry, the theory of preponderance of probability is applicable and it is not required to prove the misconduct beyond reasonable doubt. The evidence on record establishes the guilt of the petitioner and in the absence of violation of principles of natural justice and fair play or any procedural irregularity, the question of interference by this Court does not arise.

18. The Apex Court in the case of ***Apparel Export Promotion Council v. A.K. Chopra***, (1999) 1 SCC 759, in paragraphs 16 and 17 has held as under:

“16. The High Court appears to have overlooked the settled position that in departmental proceedings, the disciplinary



authority is the sole judge of facts and in case an appeal is presented to the appellate authority, the appellate authority has also the power/and jurisdiction to reappreciate the evidence and come to its own conclusion, on facts, being the sole fact-finding authorities. Once findings of fact, based on appreciation of evidence are recorded, the High Court in writ jurisdiction may not normally interfere with those factual findings unless it finds that the recorded findings were based either on no evidence or that the findings were wholly perverse and/or legally untenable. The adequacy or inadequacy of the evidence is not permitted to be canvassed before the High Court. Since the High Court does not sit as an appellate authority over the factual findings recorded during departmental proceedings, while exercising the power of judicial review, the High Court cannot, normally speaking, substitute its own conclusion, with regard to the guilt of the delinquent, for that of the departmental authorities. Even insofar as imposition of penalty or punishment is concerned, unless the punishment or penalty imposed by the disciplinary or the departmental appellate authority, is either impermissible or such that it shocks the conscience of the High Court, it should not normally substitute its own opinion and impose some other punishment or penalty. Both the learned Single Judge and the Division Bench of the High Court, it appears, ignored the well-settled principle that even though judicial review of administrative action must remain flexible and its dimension not closed, yet the court, in exercise of the power of judicial review, is not concerned with the correctness of the findings of fact on the basis of which the orders are made so long as those findings are reasonably supported by evidence and have been arrived at through proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at. Judicial review, it must be remembered, is directed not against the decision, but is confined to the examination of the decision-making process. Lord Hailsham in Chief Constable of the North Wales Police v. Evans [(1982) 3 All ER 141 HL] observed:



“The purpose of judicial review is to ensure that the individual receives fair treatment, and not to ensure that the authority, after according fair treatment, reaches, on a matter which it is authorized or enjoined by law to decide for itself, a conclusion which is correct in the eyes of the court.”

17. Judicial review, not being an appeal from a decision, but a review of the manner in which the decision was arrived at, the court, while exercising the power of judicial review, must remain conscious of the fact that if the decision has been arrived at by the administrative authority after following the principles established by law and the rules of natural justice and the individual has received a fair treatment to meet the case against him, the court cannot substitute its judgment for that of the administrative authority on a matter which fell squarely within the sphere of jurisdiction of that authority.”

19. The Hon’ble Supreme Court in the aforesaid case has held that once findings of facts, based upon appreciation of evidence is recorded, the High Court in writ jurisdiction may not normally interfere with those factual findings of facts unless findings recorded are based on no evidence or are wholly perverse and/ or legally untenable. In the present case, the findings recorded are based upon evidence, they are not at all perverse and, therefore, the question of interference by this Court does not arise.

20. The Hon’ble Supreme Court in the case of ***State of A.P. v. S. Sree Rama Rao***, (1964) 3SCR 25 in paragraph 7 has held as under:

“7. There is no warrant for the view expressed by the High Court that in considering whether a public officer is guilty of the misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the



Court, must be applied, and if that rule be not applied, the High Court in a petition I ... under Article 226 of the Constitution is competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in a manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution.”

21. In the aforesaid case also, the scope of interference in a departmental enquiry has been dealt with by the Hon'ble Supreme Court and the question



of interference in the light of the parameters laid down by the Supreme Court does not arise.

22. The Hon'ble Supreme Court in the case of *Union of India v. P. Gunasekaran*, (2015) 2 SCC 610, in paragraph 12 and 13 has held as under:

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- (i) the finding of fact is based on no evidence.*

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:



- (i) reappreciate the evidence;*
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- (iii) go into the adequacy of the evidence;*
- (iv) go into the reliability of the evidence;*
- (v) interfere, if there be some legal evidence on which findings can be based.*
- (vi) correct the error of fact however grave it may appear to be;*
- (vii) go into the proportionality of punishment unless it shocks its conscience.”*

23. The Hon'ble Supreme Court in the aforesaid case has held that in disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. It has been further held that the High Court in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence and can only see the procedural irregularities/ violation of principles of natural justice and fair play or whether the findings are based on no evidence.

24. The Hon'ble Supreme Court in a recent judgment delivered in the case of ***State of Karnataka v. N. Gangaraj***, (2020) 3 SCC 423 has followed the earlier judgments of the Hon'ble Supreme Court dealing with the scope of interference in departmental enquiries.

25. In the present case, the evidence on record establishes the guilt of the Petitioner and in absence of violation of principles of natural justice and fair play or any procedural irregularity, the interference by this Court does not arise.

26. In the light of the aforesaid judgment delivered by the Apex Court, the question of appreciation of evidence by this Court is not at all warranted



and the findings arrived at by the Tribunal can, by no stretch of imagination can be said to be perverse findings. The departmental enquiry was in consonance with the Delhi Police Establishment Punishment and Appeal Rules, 1980. The petitioner was granted opportunity of hearing, he was granted opportunity to produce defence witnesses and it is not a case where the misconduct has been proved based upon the statement made by the witnesses during the preliminary enquiry as argued by learned counsel. The finding of fact arrived at by the inquiry officer is based upon the evidence adduced before him and, therefore, the question of interference with the order of punishment, the order rejecting the appeal and the order passed by the CAT does not arise.

27. Resultantly, the writ petition is dismissed. No order as to costs.

(SATISH CHANDRA SHARMA)
CHIEF JUSTICE

(SUBRAMONIUM PRASAD)
JUDGE

AUGUST 08, 2022

N. Khanna